Internal Revenue Service
memorandum

date: JAN 31 1988

to: Larry Bayer
International Examiner Detroit

from: Christine Halphen, Special Assistant to Associate Chief Counsel (Technical and International)
Jack Feldman, Senior Reviewer, CC:INTL:Br2

subject: Technical Assistance Request From Detroit -- DISC Trade Receivables INTL-887-87

In your discussion with Kim Palmerino and Jack Feldman of this Office you request assistance as to whether certain trade receivables are qualified export assets under section 993(b) of the Internal Revenue Code. More specifically, a buy-sell DISC purchases export property from its related supplier which it sells to foreign affiliates. The accounts receivable from the sales are unpaid. Nevertheless, the DISC treats the trade receivables as qualified export assets under section 993(b)(3).

Neither the statute nor Treas. Reg. §1.993-2(d) deal specifically with the issue. However, we believe that if an account receivable from a related person remains unpaid for an excessive period of time, such receivable should be treated as a loan by the DISC either to the foreign affiliate or to the related supplier (and a capital contribution to the foreign affiliate). In either case, the receivable would no longer be treated as a qualified account receivable under section 993(b)(3) and the regulations thereunder. However, at what point a receivable loses its qualification as a qualified export asset will depend on the facts and circumstances of each case. In making such a determination, factors to be considered are whether the parties are related, what is the normal turnover period for such receivables and most important whether the non-payment of the receivables is a disguised producer's loan which does not satisfy the requirements of section 993(d).

We will be happy to make such a determination on a formal basis if Technical Advice is requested and the necessary information provided. If you need further information, please contact Jack Feldman at FTS 566-6645.